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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,221	07/18/2002	Kunihiro Iizuka	2001-1460A	6705
513	7590	10/03/2003	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			DENTZ, BERNARD I	
		ART UNIT	PAPER NUMBER	
		1625	//	
DATE MAILED: 10/03/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/937,221	IIZUKA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Bernard Dentz	1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 July 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1,6,11 and 16 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-5,7-10,12-15 and 17-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>9,10</u> . | 6) <input type="checkbox"/> Other: _____                                    |

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Applicants have elected GP. II with traverse. The examiner agrees to consider R<sub>c</sub> with the scope of the '410 patents with R<sub>a</sub> having the formula a or b.

Claims 1, 6, 11 and 16 are non-elected and withdrawn from consideration.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-5, 7-10, 12-15 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshitomi, WO 98/06433 cited by applicants in view of Ono, EPO 893437A1 cited by applicants or Nakamura et al EP 0784980A1 or Fujisawa, EP 0519354A1 all cited by applicants. The first reference discloses the active ingredient of the instant pharmaceutical compositions or agents in pharmaceutical compositions for the treatment of arteriorclerosis, antoimmune disease, cerebral function ameliorant etc. Rho kinase inhibitors are compounds which interfere with protein metabolism.

The secondary references all teach compounds which likewise interfere with protein metabolism. They are useful in treating the above diseases and in treatment of interstitial pneumonia and pulmonary fibrosis. See p.5, third paragraph of Ono e.g.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 2-5, 7-10 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshitomi, WO 98/06433. The pharmaceutical compositions of the reference which are taught as useful for many diseases including some very similar to the instant ones (autoimmune <sup>diseases</sup> e.g.) anticipate the instant same active ingredient pharmaceutical compositions notwithstanding the recitation of prophylaxes and treatment of interstitial pneumonia and pulmonary fibrosis.

Claims 17-20 which are "use of" "claims for the production of an agent" etc are rejected under 35 USC 112 for failing to particularly point out the invention. This type of claim is non-statutory.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Dentz whose telephone number is 308-4544. The examiner can normally be reached on Monday-Friday 8 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Rotman can be reached on 308-4698. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Dentz/tgd  
October 1, 2003

  
BERNARD DENTZ  
PRIMARY EXAMINER  
GROUP 1610